

Regular Session, 2012

HOUSE BILL NO. 852

BY REPRESENTATIVE TIM BURNS

ELECTION CODE: Makes revisions to the Election Code

1 AN ACT

2 To amend and reenact R.S. 18:25(B), 104(A)(3), 109, 152(C)(2)(a), 154(C), 177(A),
3 402(B)(2), (E)(1)(b) and (2)(b), (F)(2), and (G), 427(B), 431(A)(1)(a) and (3)(a) and
4 (B)(3), 435(A)(1), 465(E)(1)(a), 532.1(F), 562(A)(2), 591, 602(A), (B), (C), (D),
5 (E)(1)(a), (2)(a), and (4), and (F), 604(B)(1) and (2)(a), 1272(A), 1284(F), 1299.1,
6 1300.13, 1302(2), 1307(B)(1)(d) and (2) and (H), 1308(A)(1) and (2)(d), (e), (f), and
7 (g), 1308.1(A), 1309(D)(1) and (E)(4), 1309.1, 1313(F)(9) and (10) and (I)(2)(a),
8 1314(B)(1), (C)(1)(b) and (3), and (D)(2), 1352, 1402(C), 1405(B), 1406(B),
9 1415(B), (C), (D), (E), and (F), 1431, 1432(A), 1433(A) and (B), and 1941(A) and
10 (B), to enact R.S. 18:1307(I), 1308(A)(2)(h), (i), and (j), 1309(E)(5), 1313(F)(11),
11 1401(F), 1404(E), 1405(H), and 1415(G), and to repeal R.S. 18:1317, relative to the
12 Louisiana Election Code; to revise the system of laws comprising the Louisiana
13 Election Code; to provide relative to the authority and duties of the State Board of
14 Election Supervisors and the secretary of state; to provide relative to voter
15 registration; to provide relative to application for voter registration; to provide
16 relative to notice of registration and change in registration; to provide relative to
17 precinct registers used by the registrar of voters; to provide relative to disclosure of
18 voter information; to provide relative to reinstatement of voter registration after
19 suspension; to provide for election dates; to provide relative to watchers; to provide
20 relative to courses of instruction for commissioners; to provide relative to qualifying
21 for an election; to provide relative to nominating petitions; to provide relative to

changing of precinct boundaries by parish governing authorities; to provide relative to procedures for voting during early voting and on election day; to provide relative to identification of voters; to provide for the time limits for making appointments to fill vacancies in certain offices; to provide for the time limits for issuing proclamations for special elections to fill vacancies in certain offices; to provide relative to the requirements for special elections for certain offices; to provide relative to propositions submitted to voters at certain elections; to provide relative to recall elections; to provide relative to applying to vote absentee by mail; to provide relative to procedures and requirements for voting absentee by mail; to provide relative to the transmission of absentee by mail materials; to provide relative to absentee by mail ballots; to provide relative to the counting and tabulation and recounting of absentee by mail and early voting ballots; to provide relative to the preparation of voting machines; to provide relative to absentee by mail and early voting commissioners; to provide for the use of paper ballots; to provide relative to submission of certain changes in voting practice and procedure by political subdivisions; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 18:25(B), 104(A)(3), 109, 152(C)(2)(a), 154(C), 177(A), 402(B)(2), (E)(1)(b) and (2)(b), (F)(2), and (G), 427(B), 431(A)(1)(a) and (3)(a) and (B)(3), 435(A)(1), 465(E)(1)(a), 532.1(F), 562(A)(2), 591, 602(A), (B), (C), (D), (E)(1)(a), (2)(a), and (4), and (F), 604(B)(1) and (2)(a), 1272(A), 1300.13, 1302(2), 1307(B)(1)(d) and (2) and (H), 1308(A)(1) and (2)(d), (e), (f), and (g), 1308.1(A), 1309(D)(1) and (E)(4), 1309.1, 1313(F)(9) and (10) and (I)(2)(a), 1314(B)(1), (C)(1)(b) and (3), and (D)(2), 1352, 1402(C), 1405(B), 1406(B), 1415(B), (C), (D), (E), and (F), 1431, 1432(A), 1433(A) and (B), and 1941(A) and (B) are hereby amended and reenacted and R.S. 18:1307(I), 1308(A)(2)(h), (i), and (j), 1309(E)(5), 1313(F)(11), 1401(F), 1404(E), 1405(H), and 1415(G) are hereby enacted to read as follows:

§25. Annual reports

* * *

B. The board shall annually report to the House and Governmental Affairs Committee of the House of Representatives and the Senate and Governmental Affairs Committee of the Senate its findings, observations, and recommendations concerning all aspects of elections in this state. The report shall be submitted ~~prior to the ninetieth day before each legislative session~~ no later than January fifteenth each year and shall include but shall not be limited to the following subjects: election laws in general, registration procedures, election procedures, election officials, voting machines, tabulation and transmission of election returns, procedures used for casting and counting absentee by mail and early voting ballots, and any other aspect of elections the board deems appropriate.

* * *

§104. Application for registration; form

A. The secretary of state, subject to approval by the attorney general as to content, shall prescribe the form that shall be used uniformly by each registrar in the state and any person authorized to accept voter registration applications in registering qualified citizens to vote. The form shall contain spaces for at least the following information with respect to the applicant:

* * *

(3) Sex, ~~present age~~, and date of birth.

* * *

§109. Notice of registration and change in registration

After receiving from the registrar the information concerning a new registrant ~~or the information concerning a change in name, address, or polling place~~ made with respect to the registration of any person, the Department of State promptly shall ~~mail~~ a deliver a notice to the appropriate registrar that the person is registered or that his registration has been changed. The registrar shall then mail ~~a the~~ notice, postage prepaid, to each new registrant and to each person whose registration was changed ~~in any manner a notice that he is registered or that his registration has been changed.~~

The notice shall show the parish, ward, precinct, registration address, and party

1 affiliation of the registrant. However, the registrar shall not be required to send such
2 a notice to any voter who ~~has been~~ is on the inactive list of voters ~~for at least two~~
3 ~~years~~ unless the change in registration involves a change in the voter's address. The
4 secretary of state shall prescribe the form to be used on the notice; however, "Return
5 Service Requested" shall be printed on the front of the notice ~~shall contain directions~~
6 ~~to the postmaster to "deliver only as addressed; otherwise return to sender; address~~
7 ~~correction requested"~~, and the return address shall be that of the registrar. When a
8 notice is returned by the postmaster, the registrar shall proceed in accordance with
9 the applicable provisions of Part V of this Chapter.

10 * * *

11 §152. Required records

12 * * *

13 C.

14 * * *

15 (2)(a) Prior to each election, the registrar shall ~~request a~~ obtain one current
16 precinct register ~~and duplicate precinct register~~ for each precinct in the parish where
17 an election is to be held. The Department of State shall provide the registrar with
18 one duplicate precinct register in electronic form. Such registers shall contain both
19 the official list of voters and the inactive list of voters. Each precinct register shall
20 contain information for identification of the voter at the polls, a space which the
21 voter shall sign at the time he votes, a space for the initials of the commissioner at
22 the polls, a space for the date of the election, and space for such other information
23 as is deemed necessary.

24 * * *

25 §154. Records open to inspection; copying; exceptions

26 * * *

27 C.(1) Notwithstanding ~~the provisions~~ any provision of this Section to the
28 contrary, neither the registrar nor the Department of State shall circulate on a
29 commercial list or otherwise disclose the following:

1 (a) The fact that a registered voter is entitled to assistance in voting.

2 (b) ~~or the~~ The social security number; of a registered voter.

3 (c) The driver's license number; of a registered voter.

4 (d) The day and month of the date of birth; of a registered voter.

5 (e) The mother's maiden name; or of a registered voter.

6 (f) The electronic mail address of a registered voter; or circulate the fact that

7 ~~registered voters are entitled to assistance in voting or the social security numbers;~~

8 ~~driver's license numbers, day and month of the dates of birth, mother's maiden~~

9 ~~names, or electronic mail addresses of registered voters on commercial lists, except~~

10 ~~when~~

11 (2)(a) The provisions of Paragraph (1) of this Subsection shall not apply to

12 voter registration data ~~is~~ transmitted to the office of motor vehicles of the

13 Department of Public Safety and Corrections, for the purposes of verifying the

14 accuracy and authenticity of the social security number, driver's license number, or

15 full date of birth provided by the voter. The office of motor vehicles shall not

16 disclose information concerning a registered voter transmitted pursuant to this

17 Subparagraph, except that it may transmit such information to the United States

18 Social Security Administration for the purposes of verifying the accuracy and

19 authenticity of the social security number provided by the voter.

20 (b) Notwithstanding the provisions of Paragraph (1) of this Subsection, the

21 Department of State or registrar of voters may transmit the full date of birth of a

22 registered voter to the Supervisory Committee on Campaign Finance Disclosure to

23 verify the identity of a candidate for purposes of campaign finance reporting. The

24 supervisory committee shall not disclose the full date of birth of a registered voter

25 transmitted pursuant to this Subparagraph.

26 (c) Notwithstanding the provisions of Paragraph (1) of this Subsection, the

27 Department of State or registrar of voters may provide to a clerk of court the full date

28 of birth of a registered voter for the preparation of a general venire selection in

1 accordance with R.S. 18:175. The clerk of court shall not disclose the full date of
2 birth of a registered voter provided pursuant to this Subparagraph.

3 * * *

4 §177. Reinstatement of registration after suspension

5 A.(1) The registration of a person whose registration has been suspended by
6 the registrar of voters pursuant to R.S. 18:176 for conviction of a felony shall be
7 reinstated when the person appears in the office of the registrar and provides
8 documentation from the appropriate correction official showing that such person is
9 no longer under an order of imprisonment. ~~provided that any person who qualifies~~
10 ~~to vote under the special program for physically handicapped voters pursuant to~~
11 ~~Chapter 7-A of this Title may provide such documentation in the manner provided~~
12 ~~for such voters to vote absentee pursuant to R.S. 18:1332 and 1333.~~

13 (2) Notwithstanding the provisions of Paragraph (1) of this Subsection, such
14 documentation may be provided by mail, facsimile, commercial carrier, or hand
15 delivery for the following:

16 (a) A person who has been approved by the parish board of election
17 supervisors as being eligible to participate in the Special Program for Handicapped
18 Voters as such program existed prior to January 1, 2010.

19 (b) A person who has submitted to the registrar current proof of disability
20 from a physician along with a certification from the physician indicating that by
21 reason of the person's disability the person is unable to appear in person to vote
22 either during early voting or at the polling place on election day.

23 * * *

24 §402. Dates of primary and general elections

25 * * *

26 B. Congressional elections. Elections for members of congress and officers
27 elected at the same time as members of congress shall be held every two years,
28 beginning in 1982.

29 * * *

(2) General elections for members of congress and officers elected at the same time as members of congress shall be held on the ~~first~~ second Saturday in December of an election year.

* * *

E. Special elections to fill newly created office or vacancy in office. An election to fill a newly created office or vacancy in an existing office, except the office of representative in congress, shall be held on the dates fixed by the appropriate authority in the proclamation ordering a special election as follows:

(1) A special primary election shall be held on the first of the following days that is not less than eleven weeks after the date on which the proclamation calling the special primary election was issued:

* * *

(b) The first Tuesday after the first Monday in November, when the special general election is held on the ~~first~~ second Saturday in December.

* * *

(2) A special general election shall be held on one of the following days:

* * *

(b) The first second Saturday in December of even-numbered years.

* * *

F. Bond, tax, or other elections. Every bond, tax, or other election at which a proposition or question is to be submitted to the voters shall be held only on one of the following dates:

* * *

(2) ~~The first Saturday in October or the~~ The first Tuesday after the first Monday in November or the second Saturday in December of even-numbered years.

* * *

G.(1) Prohibited days. No election of any kind shall be held in this state on any of the days of Rosh Hashana, Yom Kippur, Sukkot, Shemini Atzeret, Simchat Torah, the first two days and the last two days of Passover, Shavuot, Tish'a B'Av, the

two days preceding Labor Day or the three days preceding Easter. If the date of any election falls on any of the above-named days, the election shall be held on the same weekday of the preceding week.

(2) If the date for the general election is advanced in accordance with the provisions of Paragraph (1) of this Subsection, the primary election shall be advanced the same number of weeks as the general election.

* * *

§427. Watchers

* * *

B. Powers and duties. A watcher shall be admitted within all parts of the polling place during the election day and the counting and tabulation of votes, and shall call any infraction of the law to the attention of the commissioners. A watcher may keep notes on the conduct of the election, but he shall not take part in the counting and tabulation of votes. A watcher shall not electioneer, engage in political discussions, or unnecessarily delay a voter at the polling place. A watcher shall be subject to the authority of the commissioners and shall not interfere with the commissioners in the performance of their duties.

* * *

§431. Commissioners; courses of instruction; certificates; reports; list of certified persons furnished by parish board of election supervisors

A.(1)(a) At least ~~semiannually~~ annually the clerk of court shall conduct a general course of instruction for commissioners. ~~These courses~~ Each such course of instruction shall be open to the public, and the clerk shall publicize ~~the courses~~ each course in a manner reasonably calculated to encourage maximum attendance and participation. For informational purposes, the registrar may assist the clerk of court in conducting the course.

* * *

(3)(a) After each course of instruction for commissioners is completed, the clerk of court shall promptly file a report with the parish board of election

1 supervisors ~~and the secretary of state~~ stating the time and place the course of
2 instruction was held, the number of persons who attended the course, the manner in
3 which the course was publicized, and the name, social security number, party
4 affiliation, if any, and mailing address of each person who attended the course to
5 whom a certificate of instruction was issued. The clerk of court shall also provide
6 a report to the secretary of state in the manner required by the secretary of state.

7 * * *

8 B.

9 * * *

10 (3) After the completion of a course of instruction required by this
11 Subsection, the clerk of court shall promptly file a report with the parish board of
12 election supervisors ~~and the secretary of state~~ stating the name of each person to
13 whom a certificate was issued, the kind of certificate, the social security number, the
14 party affiliation, and the mailing address of each such person. The clerk of court
15 shall also provide a report to the secretary of state in the manner required by the
16 secretary of state.

17 * * *

18 §435. Watchers; appointment and commission

19 A. Right to have watchers. (1) Each candidate is entitled to have one watcher
20 at every precinct on election day where the office he seeks is voted on in a primary
21 or general election. The candidate or his authorized representative shall file one list
22 of watchers on a form provided by the secretary of state or on a form which contains
23 the same information as required by the form provided by the secretary of state.
24 When a candidate's list of watchers is filed by the candidate's authorized
25 representative, a letter of authorization from the candidate shall accompany the list
26 of watchers; however, in the case of a presidential election, each slate of candidates
27 for presidential elector is entitled to have one watcher at every precinct. The state
28 central committee of each recognized political party shall be responsible for filing
29 the list of watchers for its slate of candidates for presidential elector. The list of

1 watchers for an independent or other party slate of candidates for presidential elector
2 shall be filed by any person so authorized by the presidential candidate supported by
3 the slate of electors. A letter of authorization from the presidential candidate, or an
4 authorized agent of his campaign, shall accompany the list of watchers.

5 * * *

6 §465. Nominating petitions

7 * * *

8 E. Certification. (1)(a) A nominating petition shall be submitted to the
9 registrars of voters in the parishes where the signers reside. A nominating petition
10 shall be submitted to the registrars in such parishes not less than thirty days before
11 the qualifying period ends for candidates in the primary election or special election
12 called pursuant to R.S. 18:402(E) or, in the case of presidential electors, in the
13 presidential election, except that in a special election called pursuant to R.S.
14 18:601(A)(2) or 1279, a nominating petition shall be submitted by the candidate to
15 the registrars of voters in such parishes prior to the opening of the qualifying period.
16 not less than fourteen days before the qualifying period ends for candidates in the
17 special election.

18 * * *

19 §532.1. Changing boundaries

20 * * *

21 F. Within fifteen days after the adoption of the ordinance as provided in this
22 Section, the parish governing authority shall send to the secretary of the Senate and
23 the clerk of the House of Representatives, ~~as well as the secretary of state, the clerk~~
24 of court, and the registrar of voters a certified copy of the ordinance and a copy of
25 a map showing the new precinct boundaries together with a written description of
26 such boundaries.

27 * * *

1 §562. Prerequisites to voting

2 A. Identification of voters.

3 * * *

4 (2) Each applicant shall identify himself, in the presence and view of the
5 bystanders, and present to the commissioners a Louisiana driver's license, a
6 Louisiana special identification card issued pursuant to R.S. 40:1321, or other
7 generally recognized picture identification card that contains the name and signature
8 of the applicant. If the applicant does not have a Louisiana driver's license, a
9 Louisiana special identification card, or other generally recognized picture
10 identification card that contains the name and signature of the applicant, the
11 applicant shall complete and sign an affidavit, which is supplied by the secretary of
12 state, to that effect before the commissioners, which affidavit shall include the
13 applicant's date of birth and mother's maiden name. If the applicant is unable to read
14 or write or is otherwise unable to complete the affidavit due to disability, the
15 applicant may receive assistance in completing the affidavit and the commissioner
16 shall make a notation on the affidavit. The applicant may receive the assistance of
17 any person of his choice, including a commissioner, except a candidate,
18 commissioner-in-charge, the applicant's employer or employer's agent, or the
19 applicant's union agent. The commissioners ~~who~~ shall place the affidavit in the
20 envelope marked "Registrar of Voters" and attach the envelope to the precinct
21 register, ~~and the applicant shall provide further identification by presenting his~~
22 ~~current registration certificate, giving his date of birth, or providing other~~
23 ~~information stated in the precinct register that is requested by the commissioners.~~
24 However, an applicant who is allowed to vote without the picture identification
25 required by this Paragraph is subject to challenge as provided in R.S. 18:565.

26 * * *

27 §591. Vacancy in office of elective members of state boards and commissions

28 Within twenty-four hours after any member of a state board or commission
29 has knowledge of a vacancy in an elective office on that state board or commission,

1 he shall notify the governor by certified mail of the vacancy, the date on which it
2 occurred, and the cause thereof. Within ~~ten~~ twenty days after he is notified of the
3 vacancy, the governor shall appoint a person to fill the vacancy who has the
4 qualifications for the office. However, if the deadline for making the appointment
5 falls on a Saturday, Sunday, or other legal holiday, then the next day which is not a
6 Saturday, Sunday, or legal holiday shall be deemed to be the final day for making
7 such appointment. If the unexpired term is one year or less, the member so
8 appointed shall serve for the remainder thereof. If the unexpired term exceeds one
9 year, the governor, within ~~ten~~ twenty days after he is notified of the vacancy, shall
10 issue his proclamation ordering a special election to fill the vacancy, which shall
11 specify, in accordance with R.S. 18:402, the dates on which the primary and general
12 elections shall be held, and in accordance with R.S. 18:467, 467.1, and 468, the dates
13 of the qualifying period for the candidates in the special election. However, if the
14 deadline for issuing the proclamation falls on a Saturday, Sunday, or other legal
15 holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be
16 deemed to be the final day for issuing such proclamation. Immediately thereafter the
17 governor shall publish the proclamation in the official journal of each parish in
18 which the election is to be held. Within twenty-four hours after issuing the
19 proclamation, the governor shall send a copy of the proclamation to the secretary of
20 state who shall within twenty-four hours after receipt of the information notify all
21 election officials having any duty to perform in connection with the special election
22 to fill such vacancy, including the parish boards of election supervisors for the parish
23 or parishes in which the vacancy occurred. The governor may appoint a person to
24 fill a vacancy and issue a proclamation ordering a special election when he learns of
25 a vacancy, whether or not he has received notice thereof from a state board or
26 commission member. Whenever a special election is required, the governor's
27 appointee shall serve only until the successor is elected and takes office.

28 * * *

1 §602. Vacancies in certain local and municipal offices; exceptions

2 A. When a vacancy occurs in the office of a member of a parish or municipal
3 governing authority or a combination thereof, a mayor, or any other local or
4 municipal office, except an office covered by Subsections B and C ~~hereof~~ of this
5 Section and except the office of judge, state legislator, or marshal of a city or
6 municipal court, and the office is filled by election wholly within the boundaries of
7 a local governmental subdivision, the governing authority of the local governmental
8 subdivision where the vacancy occurs shall, within ~~ten~~ twenty days, appoint a person
9 to fill the vacancy who meets the qualifications of the office. However, if the
10 deadline for making the appointment falls on a Saturday, Sunday, or other legal
11 holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be
12 deemed to be the final day for making such appointment. The presiding officer of
13 the governing authority shall not be required to vote on such an appointment to be
14 made by the governing authority of a local governmental subdivision unless a tie
15 vote occurs thereon, in which case he shall vote to break the tie; however, in no case
16 shall the presiding officer vote more than once on the appointment.

17 B. When a vacancy occurs in the membership of a city or parish school
18 board, the remaining members of the board shall, within ~~ten~~ twenty days, declare that
19 the vacancy has occurred and proceed to appoint a person who meets the
20 qualifications of the office to fill the vacancy. However, if the deadline for making
21 the appointment falls on a Saturday, Sunday, or other legal holiday, then the next day
22 which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day
23 for making such appointment. For the purposes of this Subsection, in addition to the
24 definition of "vacancy" provided in R.S. 18:581, a "vacancy" in a city or parish
25 school board office shall be deemed to have occurred when, in the case of a city
26 school board, a member's residence no longer lies within the jurisdiction of the board
27 or when, in the case of a parish school board, a member changes his domicile from
28 the district he represents or, if elected after reapportionment, is domiciled outside the

1 district he represents at the time he is sworn into office, any declaration of retention
2 of domicile to the contrary notwithstanding.

3 C. When a vacancy occurs in any of the following offices, the duties of the
4 office shall be assumed by the person hereinafter designated: (1) district attorney, by
5 the first assistant; (2) clerk of a district court, by the chief deputy; (3) coroner, by the
6 chief deputy; (4) sheriff, by the chief criminal deputy, except that in a parish that has
7 both a civil sheriff and a criminal sheriff, the civil sheriff by the chief civil deputy,
8 and the criminal sheriff, by the chief criminal deputy, respectively; and (5) tax
9 assessor, by the chief deputy assessor. If there is no such person to assume the duties
10 when the vacancy occurs, the governing authority or authorities of the parish or
11 parishes affected shall, within ~~ten~~ twenty days, appoint a person having the
12 qualifications of the office to assume the duties of the office. However, if the
13 deadline for making the appointment falls on a Saturday, Sunday, or other legal
14 holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be
15 deemed to be the final day for making such appointment.

16 D. If a vacancy is not filled within the time specified in Subsections A, B,
17 or C ~~herein~~ of this Section, the governor shall fill the vacancy.

18 E.(1)(a) If the unexpired term of an office covered by Subsection A, B, or
19 C ~~above~~ of this Section is one year or less, the person appointed to fill the vacancy
20 or designated to assume the duties of the office shall serve for the remainder of the
21 unexpired term.

22 * * *

23 (2)(a) If the unexpired term exceeds one year, the governing authority of the
24 local governmental subdivision in which the vacancy occurs, or the school board
25 when the vacancy occurs in its membership, or the governor when a vacancy occurs
26 in the office of district attorney or in an office for which there is not a single
27 governing authority or as provided in Subsection F of this Section, within ~~ten~~ twenty
28 days after the vacancy occurs, shall issue a proclamation ordering a special election
29 to fill the vacancy and shall specify in the proclamation, in accordance with R.S.

18:402, the dates on which the primary and general elections shall be held and, in accordance with R.S. 18:467, 467.1, and 468, the dates of the qualifying period for candidates in the special election. However, if the deadline for issuing the proclamation falls on a Saturday, Sunday, or other legal holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day for issuing such proclamation. In selecting the dates for such special elections, the governing authority or school board as the case may be, may choose a gubernatorial or congressional election date, if such date is available within a year of the occurrence of the vacancy or may select an election date in accordance with R.S. 18:402. In the cases in which the governor has the authority to select the date for such special elections, the governor shall first choose a gubernatorial or congressional election date. If no such date is available within a year of the occurrence of the vacancy, the governor shall then select an election date in accordance with R.S. 18:402. If the governing authority or school board fails to issue the proclamation within ~~ten~~ twenty days after the vacancy occurs, the governor shall issue the proclamation.

* * *

(4) If the unexpired term of a parish or municipal office covered by Subsection A of this Section is one year or more, but the vacancy occurs within one year of the ~~regular municipal~~ regularly scheduled primary election for that office, no special election will be called, and the appointee shall serve for the remainder of the term of office.

F. Whenever multiple vacancies in a local or municipal governing authority or in a school board covered by Subsection A or B of this Section reduce the membership of such governing authority or board below the number of total members required to constitute a quorum to conduct official business, the remaining members shall immediately inform the governor of the existence of the vacancies. Within ~~ten~~ twenty days after he receives this notice, the governor shall make appointments to fill all the vacancies and shall issue a proclamation calling special

elections to fill such vacancies if special elections are required under the provisions of this Section. However, if the deadline for making the appointment or issuing the proclamation, if applicable, falls on a Saturday, Sunday, or other legal holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day for making such appointment or issuing such proclamation.

* * *

§604. Marshal of city or municipal court; temporary absence; vacancy

* * *

B.(1) When a vacancy occurs in the office of constable or marshal of a city or municipal court and the unexpired term of the office is one year or less, the chief deputy shall assume such duties and position and shall serve for the remainder of the expired term. However, in those cases where there is no such person to assume the duties when the vacancy occurs, the appropriate governing authority shall within ~~ten~~ twenty days appoint a person having the qualifications of the office to assume the duties of the office for the remainder of the unexpired term. However, if the deadline for making the appointment falls on a Saturday, Sunday, or other legal holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day for making such appointment. The appointment shall be made by the governing authority of the parish, unless the jurisdiction of the city or municipal court is wholly within the municipal city limits, in which case, such appointment shall be made within ~~ten~~ twenty days by the municipal governing authority. However, if the deadline for making the appointment falls on a Saturday, Sunday, or other legal holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day for making such appointment. If the appropriate governing authority fails to fill the vacancy within ~~ten~~ twenty days, the governor shall fill the vacancy. The judge of the city or municipal court which he serves shall fix the amount of the bond.

(2)(a) When the unexpired term exceeds one year, the chief deputy shall assume such duties and position and shall serve until the successor is elected and

1 takes office. If there is no such person to assume the duties when the vacancy
2 occurs, the appropriate governing authority shall within ~~ten~~ twenty days appoint a
3 person having the qualifications of the office to assume the duties of the office until
4 the successor is elected and takes office. However, if the deadline for making the
5 appointment falls on a Saturday, Sunday, or other legal holiday, then the next day
6 which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day
7 for making such appointment. If the appropriate governing authority fails to fill the
8 vacancy within ~~ten~~ twenty days, the governor shall fill the vacancy. The appropriate
9 governing authority shall, within ~~ten~~ twenty days after the vacancy occurs, issue a
10 proclamation ordering a special election to fill the vacancy and shall specify in the
11 proclamation, in accordance with R.S. 18:402, the dates on which the primary and
12 general elections shall be held and, in accordance with R.S. 18:467, 467.1, and 468,
13 the dates of the qualifying period for candidates in the special election. However,
14 if the deadline for issuing the proclamation falls on a Saturday, Sunday, or other
15 legal holiday, then the next day which is not a Saturday, Sunday, or legal holiday
16 shall be deemed to be the final day for issuing such proclamation. If the appropriate
17 governing authority fails to issue the proclamation within ~~ten~~ twenty days after the
18 vacancy occurs, the governor shall issue the proclamation.

19 * * *

20 §1272. United States senators; representatives in congress; time of electing

21 A. All general elections for representatives in congress shall be held on the
22 ~~first~~ second Saturday in December, in even-numbered years. The primary election
23 shall be held on the first Tuesday after the first Monday in November of an election
24 year.

25 * * *

26 §1300.13. Declaration of vacancy

27 When the majority is in favor of the recall, the public officer is, ipso facto,
28 recalled and removed from office, and the office shall be vacated upon receipt by the
29 ~~secretary of state of certified returns from all of the parish boards of election~~

1 ~~supervisors within the jurisdiction, expiration of the time period for contesting the~~
2 ~~recall election set forth in R.S. 18:1405(H) if an action contesting the recall election~~
3 ~~is not commenced timely or when the final judgment becomes definitive if an action~~
4 ~~contesting the recall election is commenced timely,~~ and the office shall be filled as
5 in the case of ordinary vacancies and according to the constitution and laws of the
6 state. A public officer who has been recalled and removed from office shall not be
7 appointed to succeed himself in the office from which he was recalled and removed.

8 * * *

9 §1302. Definitions

10 As used in this Chapter, unless the context clearly indicates otherwise, the
11 following terms shall have the meanings hereafter ascribed to each:

12 * * *

13 (2) "Board" means the parish board of election supervisors of each parish.
14 If absentee by mail and early voting commissioners are utilized by the parish board
15 of election supervisors to count and tabulate absentee votes, the term "board" for the
16 purposes of R.S. 18:1306, 1311, 1312, 1313, 1315, and 1316, ~~and 1317~~ may also
17 mean absentee by mail and early voting commissioners.

18 * * *

19 §1307. Application by mail

20 * * *

21 B.(1)

22 * * *

23 (d) Notwithstanding the provisions of Subparagraph (a) of this Paragraph,
24 with respect to applicants who have a valid Louisiana driver's license or Louisiana
25 special identification card issued pursuant to R.S. 40:1321 who are registered to vote,
26 an application to vote by mail may be made by completing and submitting an
27 electronic application to vote by mail on the secretary of state's website.

28 (2) Except as provided in Subsections C and D of this Section and R.S.
29 ~~18:1333(D)(2), 18:1333(D)(1),~~ an application must be received by the registrar not

1 ~~earlier than sixty days or~~ later than 4:30 p.m. on the fourth day prior to the election
2 for which it is requested, and the date received shall be noted thereon. However, if
3 the deadline falls on a Saturday, Sunday, or other legal holiday, then the next day
4 which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day
5 of the deadline.

6 * * *

7 H. If the applicant is eligible to vote absentee by mail pursuant to R.S.
8 18:1303(H), his application, if such application meets the requirements of this
9 Section, shall remain valid as long as the applicant is a program participant in the
10 Department of State Address Confidentiality Program pursuant to Part III of Chapter
11 1 of Title 44 of the Louisiana Revised Statutes of 1950. When the applicant ceases
12 participation in the program, the Department of State shall notify the registrar of the
13 parish where the applicant is registered to vote that the applicant is no longer a
14 participant in the program. Upon receipt of the notification from the Department of
15 State, the registrar shall send notice by forwardable mail to the applicant that his
16 application will no longer be valid, and the applicant shall be required to submit a
17 new application to the registrar that meets the requirements of this Section and
18 provide a current address before the applicant will be eligible to vote absentee by
19 mail again pursuant to this Section.

20 H. I. If the registrar of voters has reason to believe that the eligibility of a
21 voter to vote absentee by mail pursuant to R.S. 18:1303(I) is based upon false or
22 fraudulent information, he shall immediately notify the parish board of election
23 supervisors. If, after appropriate hearing and opportunity for the voter to be heard,
24 the parish board of election supervisors finds that the voter's eligibility to vote
25 absentee by mail was based upon false or fraudulent information, the board shall
26 inform the appropriate district attorney and the registrar of voters who shall not allow
27 the voter to vote absentee by mail pursuant to R.S. 18:1303(I).

28 * * *

1 §1308. Absentee voting by mail

2 A.(1)(a) Beginning with the date on which the registrar receives the absentee
3 by mail ballots and other necessary paraphernalia from the secretary of state, and
4 thereafter, immediately upon receipt of an application by mail, the registrar shall
5 mail the necessary instructions, certificates, ballots, and envelopes to the applicant
6 at the address furnished by the applicant. ~~The registrar shall detach the perforated~~
7 ~~slip from the absentee by mail ballot before mailing it to the voter and shall retain~~
8 ~~the slip in the records of his office for six months.~~

9 (b) If the voter feels he will not have time to vote timely by mail, the voter
10 may request that the registrar transmit to him by facsimile a ballot, including the
11 affidavit, or a second ballot, as the case may be, and the registrar shall do so if he has
12 a facsimile machine in his office. However, the registrar shall not be required to
13 send a second ballot by facsimile if the voter received a ballot by mail. The voter
14 may then mail his voted ballot, including the affidavit, back to the registrar or
15 transmit it by facsimile if the registrar has a facsimile machine in his office. If the
16 voter transmits his voted ballot to the registrar by facsimile, the documents to be
17 transmitted shall contain the following statement: "I understand that by faxing my
18 voted ballot I am voluntarily waiving my right to a secret ballot." This statement
19 shall be followed by the voter's handwritten signature, date, and social security
20 number. Upon receipt of the transmittal, the registrar shall place the voted ballot
21 along with the signed statement and affidavit in an appropriately marked envelope
22 and seal it. The registrar and his staff shall take the steps necessary to keep the voted
23 ballots received by facsimile as confidential as practicable.

24 (2)

25 * * *

26 (d) Notwithstanding the provisions of Subparagraph (a) of this Paragraph,
27 with respect to members of the United States Service and persons residing outside
28 the United States who are registered to vote, these materials may be electronically

1 transmitted for candidates for state, local, and municipal offices and shall include the
2 special ballot or ballots as provided in R.S. 18:1306(A)(4) for the general election.

3 (e) Notwithstanding the provisions of Subparagraph (a) of this Paragraph,
4 with respect to members of the United States Service and persons residing outside
5 the United States who are registered to vote, these materials may be electronically
6 transmitted for candidates for political party offices.

7 (f) Notwithstanding the provisions of Subparagraph (a) of the Paragraph,
8 with respect to members of the United States Service and persons residing outside
9 the United States who are registered to vote, these materials may be electronically
10 transmitted for recall, proposed constitutional amendments, proposition, and question
11 elections.

12 (g) For mailed ballots, the envelope mailed to the voter shall contain four
13 envelopes, two of which shall be the ballot envelopes and two of which shall be
14 return envelopes. Each return envelope shall bear the official title and mailing
15 address of the registrar, whether it contains a primary or general election ballot, and
16 the name, return address, and precinct or district number of the voter. The voter shall
17 return his voted primary election ballot and special ballot for the general election to
18 the registrar in the appropriate envelopes. The registrar of voters shall mail a regular
19 general election absentee ballot to a member of the United States Service or to
20 persons residing overseas only if the regular general election absentee ballot includes
21 one or more elections that were not included on the special ballot sent, as provided
22 herein, to such voter. The envelope for the special ballot shall contain language on
23 the outside of the envelope that clearly designates which envelope is to be used for
24 return of the general election ballot.

25 ~~(e)~~(h)(i) For electronically transmitted presidential preference primary,
26 presidential, congressional primary, and congressional general election ballots, the
27 registrar shall transmit the ballot or ballots, certificate, and waiver of the right to a
28 secret ballot to the voter for each ballot mailing. The waiver of the right to a secret
29 ballot shall contain the following statement: "My ballot was transmitted

1 electronically to me and I am voluntarily waiving my right to a secret ballot." The
2 statement shall also contain a space for the voter's handwritten signature, the date,
3 and the voter's social security number. The voter shall return by mail his voted ballot
4 or ballots, completed certificate, and signed waiver of the right to a secret ballot for
5 each ballot mailing. The registrar and his staff shall take the steps necessary to keep
6 each voted ballot that was transmitted electronically as confidential as practicable.

7 (ii) The voter may use a separate "Security Envelope" and ballot transmittal
8 envelope from the Federal Write-in Absentee Ballot to mail the electronically
9 transmitted presidential preference primary, presidential, congressional primary, or
10 congressional general election ballot or ballots, certificate, and waiver of the right
11 to a secret ballot to the parish registrar of voters for each ballot mailing.

12 ~~(f)~~ (i) Notwithstanding the provisions of Subparagraphs (a), ~~(b)~~, ~~(c)~~, and ~~(d)~~
13 through (f) of this Paragraph, a voter who is a member of the United States Service
14 or who resides outside the United States and who feels he will not have time to vote
15 timely by mail, may request that the registrar transmit to him by facsimile a ballot,
16 including the certificate, or a second ballot, as the case may be, and the registrar shall
17 do so. The voter may then either mail or transmit by facsimile his voted ballot and
18 certificate back to the registrar at the facsimile machine number designated by the
19 registrar. If the voter chooses to transmit his voted ballot to the registrar by
20 facsimile, the documents to be transmitted shall contain the following statement: "I
21 understand that by faxing my voted ballot I am voluntarily waiving my right to a
22 secret ballot." This statement shall be followed by the voter's handwritten signature,
23 date, and social security number. Upon receipt of the transmittal, the registrar shall
24 place the voted ballot along with the signed statement and certificate in an
25 appropriately marked envelope and seal it. The registrar and his staff shall take the
26 steps necessary to keep the voted ballots received by facsimile as confidential as
27 practicable.

28 ~~(g)~~ (j) The secretary of state as the chief election officer of the state shall
29 take all actions reasonably necessary to allow members of the United States Service

1 and persons residing outside the United States to vote according to the Uniformed
2 and Overseas Citizens Absentee Voting Act or otherwise during a period of declared
3 emergency, whether by mail, facsimile, or other means of transmission of the ballot,
4 notwithstanding any provision of this Code to the contrary.

5 * * *

6 §1308.1. Absentee voting by person serving on sequestered jury

7 A. Immediately upon receipt of an application, the registrar shall deliver the
8 necessary instructions, certificates, ballots, and envelopes to the officer of the court
9 in charge of the sequestered jury on which the applicant is serving, at the address
10 furnished by the applicant. ~~The registrar shall detach the perforated slip from each~~
11 ~~absentee ballot before delivering it to the officer, shall retain the slip from each~~
12 ~~absentee ballot before delivering it to the officer, and shall retain the slip in the~~
13 ~~records of his office for six months.~~ Each envelope delivered to the officer shall
14 contain two envelopes, one of which shall be the ballot envelope and the other shall
15 be a return envelope bearing the official title and mailing address of the registrar and
16 the name, return address, and precinct or district number of the voter. This latter
17 envelope shall be used by each voter to return his ballot.

18 * * *

19 §1309. Early voting application and early voting

20 * * *

21 D.(1) Before any voter is allowed to vote during early voting, the registrar
22 or his deputy shall establish the voter's identity by requiring him to submit a
23 Louisiana driver's license, a Louisiana special identification card issued pursuant to
24 R.S. 40:1321, or other generally recognized picture identification card that contains
25 the name and signature of the voter. If the voter does not have a Louisiana driver's
26 license, a Louisiana special identification card, or other generally recognized picture
27 identification card that contains the name and signature of the voter, the voter shall
28 complete and sign, in the presence of the registrar or his deputy, an affidavit to that
29 effect provided by the secretary of state, which affidavit shall include the voter's date

of birth and mother's maiden name. If the voter is unable to read or write or is otherwise unable to complete the affidavit due to disability, the voter may receive assistance in completing the affidavit, and the registrar or his deputy shall make a notation on the affidavit. The voter may receive the assistance of any person of his choice, including the registrar or his deputy, except a candidate, the voter's employer or employer's agent, or the voter's union agent. The registrar or his deputy shall retain the affidavit in the office of the registrar of voters, and the voter shall provide further identification by presenting his current registration certificate, giving his date of birth, or providing to the registrar or his deputy, upon request, other information regarding the voter contained in the precinct register. If satisfied that the voter has identified himself as the voter named on the precinct register or list kept by the registrar and that he is qualified to vote, the registrar or his deputy shall initial the precinct register or list kept by the registrar opposite the voter's signature or mark. The voter then shall be allowed to vote. A voter who votes without the picture identification required by this Paragraph is subject to challenge as provided in R.S. 18:1315.

* * *

E.

* * *

(4)(a) A voter shall not remain in a voting machine longer than three minutes. If a voter fails to leave a voting machine promptly after the registrar or deputy registrar has notified him that three minutes have elapsed, the registrar or deputy registrar shall have the voter removed from the voting machine.

(b) Notwithstanding Subparagraph (a) of this Paragraph, a voter receiving assistance in voting pursuant to R.S. 18:1309.3 or a voter using the audio ballot shall be allowed to remain in a voting machine for up to twenty minutes. If such a voter fails to leave a voting machine promptly after the registrar or deputy registrar has notified him that twenty minutes have elapsed, the registrar or deputy registrar shall have the voter removed from the voting machine.

~~(4)(a)~~ (5)(a) In order to cast a vote on a voting machine, a voter shall make a selection in a candidate or proposition election. Voting is completed by activating the cast vote mechanism. If the voter has made any selection in a candidate or proposition election but has failed to activate the cast vote mechanism, the registrar or his deputy, observed by a deputy registrar or, in the absence of a deputy registrar, a witness, shall activate the cast vote mechanism for the fled voter without altering any selections made by the voter. In the case of vote activation in the presence of a witness, the registrar or deputy registrar shall record the name and address of the witness.

(b) In order to cast a vote on a paper ballot, a voter must make a selection for a candidate or for or against a proposition by completely filling in the oval to the right of a selection and returning the ballot to the appropriate election official within the applicable deadline set forth by law. If a voter makes selections for more than the number of candidates to be elected for an office or makes selections for and against the same proposition, the selections for that office or proposition will be void.

* * *

§1309.1. ~~Notice of preparation~~ Preparation of machines for early voting;
examination by candidate or his representative; sealing machines

A. ~~Prior to the conduct of early voting,~~ At the time of qualifying, the parish custodian shall notify each candidate ~~of~~ to contact the registrar of voters for the time and place at which the voting machines will be prepared for early voting. ~~The notice shall state the time and place at which he will begin preparation of the machines for sealing and that the~~ The candidate or his representative may be present to observe the preparation of the machines ~~for~~ by the registrar of voters with the assistance of the secretary of state's technicians and to observe the testing and sealing of the machines by the ~~parish custodian.~~ registrar of voters in the presence of the parish board of election supervisors. Each candidate or his representative shall be afforded a reasonable opportunity to ~~inspect and test vote the machines~~ view the test vote tape

1 for each machine to see that they are in the proper condition for use in the election,
2 which opportunity shall not be less than thirty minutes beginning at the time
3 designated by the ~~parish custodian~~ registrar of voters to begin preparation of the
4 machines for sealing. However, no candidate, representative, or citizen shall
5 interfere with the registrar of voters, secretary of state's technicians, ~~parish custodian~~,
6 board of election supervisors, or any employee or technician or assume any of their
7 duties.

8 B. Each candidate or representative shall identify to the registrar of voters
9 the candidate whom he is representing. In addition, any citizen of this state may be
10 present to observe the preparation, testing, and sealing of the machines by the ~~parish~~
11 ~~custodian~~ registrar of voters and shall be afforded an opportunity to inspect the
12 ~~machines~~ test vote tape for each machine to see that they are in proper condition for
13 use for early voting.

14 C. After the machines have been examined by each candidate, or
15 representative, or citizen who is present, the parish board of election supervisors
16 shall generate a zero tally to ensure that the voting machine's public counter is set at
17 zero and that no votes have been cast for any candidate or for or against any
18 proposition. The ~~parish custodian~~ registrar of voters shall then seal the voting
19 machine.

20 * * *

21 §1313. Tabulation and counting of absentee by mail and early voting ballots

22 * * *

23 F. The procedure for counting absentee by mail or early voting ballots shall
24 be as follows:

25 * * *

26 (9) If a ballot is physically damaged or cannot properly be counted by the
27 counting equipment and the board can tell the intent of the voter from the defective
28 ballot, a true duplicate copy may be made of the defective ballot in the presence of
29 witnesses and substituted for the ballot. The duplicate ballot shall be clearly labeled

"duplicate", bear a ballot number which shall be recorded on the defective ballot, and be counted in lieu of the defective ballot. After a ballot has been duplicated, the defective ballot shall be placed in the special absentee by mail and early voting ballot envelope, and the duplicate ballot shall be counted with the other valid ballots.

(10) Prior to utilizing any absentee by mail and early voting counting equipment, the parish board of election supervisors shall generate a zero tally to ensure that the equipment's candidate and question counter are set at zero and that no votes have been cast for any candidate or for or against any proposition.

~~(10)~~ (11) The absentee by mail and early voting votes cast for a candidate and those cast for and against a proposition shall be counted and the total number of absentee by mail and early voting votes cast for a candidate and those cast for and against a proposition shall be announced in the order the offices and candidates and propositions are listed on the ballot. The members of the board shall enter the total number of votes on the final absentee by mail and early voting vote report and shall certify the results.

* * *

I.

* * *

(2)(a) Notwithstanding the provisions of Paragraph (1) of this Subsection, if the number of absentee by mail and early voting ballots cast for all candidates for an office could make a difference in the outcome of the election for such office, upon the written request of a candidate for such office, the board shall recount the absentee by mail ballots by hand or scanning equipment and early voting ballots electronically, unless paper ballots were used for early voting and in such case, the ballots shall be recounted by hand for such office.

* * *

§1314. Absentee by mail and early voting commissioners

* * *

1 B. Selection for primary election. (1) The parish board of election
2 supervisors shall determine the number of absentee by mail and early voting
3 commissioners necessary to count the absentee by mail and early voting ballots in
4 the parish. The parish board of election supervisors shall select a ~~minimum~~
5 maximum of ~~three~~ six such commissioners. If the parish board of election
6 supervisors determines that the number of absentee by mail and early voting
7 commissioners should be increased to more than six, the parish board shall make a
8 request to the secretary of state for the additional absentee by mail and early voting
9 commissioners. If the secretary of state or his designee determines that there is a
10 need for the additional absentee by mail and early voting commissioners, the parish
11 board shall select the additional absentee by mail and early voting commissioners.

12 * * *

13 C. Selection for general election. (1)

14 * * *

15 (b) If it determines that the number cannot be reduced or should be
16 increased, those persons who served as absentee by mail and early voting
17 commissioners and alternate absentee by mail and early voting commissioners for
18 the parish in the primary election shall serve in the general election, unless replaced
19 or disqualified in the manner provided by law for commissioners and alternate
20 commissioners. ~~The number of absentee by mail and early voting commissioners for~~
21 ~~a general election shall not be less than three.~~ If the parish board of election
22 supervisors determines that the number of absentee by mail and early voting
23 commissioners should be increased to more than the number of such commissioners
24 who served in the primary election, the parish board shall make a request to the
25 secretary of state for the additional absentee by mail and early voting commissioners.
26 If the secretary of state or his designee determines that there is a need for the
27 additional absentee by mail and early voting commissioners, the parish board shall
28 select the additional absentee by mail and early voting commissioners.

29 * * *

1 (3) If the parish board ~~determines~~ and the secretary of state or his designee
2 determine that the number of absentee by mail and early voting commissioners
3 should be increased, the parish board shall meet at 10:00 a.m. on the fifth day before
4 a general election and shall select the additional absentee by mail and early voting
5 commissioners and alternate absentee by mail and early voting commissioners to
6 serve in the general election for that parish from the list of certified commissioners
7 who have not been chosen to serve in the general election as a
8 commissioner-in-charge, commissioner, or, if applicable, absentee by mail and early
9 voting commissioner in the manner provided by law for the selection of
10 commissioners and alternate commissioners. If there are not enough certified
11 commissioners to select the appropriate number of absentee by mail and early voting
12 commissioners and alternate absentee by mail and early voting commissioners, the
13 board of election supervisors may select a qualified elector of the parish to serve;
14 however, no such elector shall serve as an absentee by mail and early voting
15 commissioner if a certified commissioner has been selected as an alternate absentee
16 by mail and early voting commissioner.

17 D. Selection for provisional ballot counting for a primary or general election.

18 * * *

19 (2) Upon approval by the secretary of state or his designee, the parish board
20 of election supervisors shall appoint the approved number of absentee by mail and
21 early voting commissioners for assistance to the board in counting and tabulating the
22 provisional ballots.

23 * * *

24 §1352. Use of voting machines throughout state; exception for failure of voting
25 equipment, absentee by mail and early voting

26 A. Voting machines shall be used throughout this state in all elections. ;
27 ~~however, nothing~~

28 B. Notwithstanding the provisions of Subsection A of this Section, paper
29 ballots may be used when voting machines fail.

1 C. Nothing in this Chapter shall prohibit absentee by mail and early voting
2 as otherwise provided in this Title.

3 * * *

4 §1401. Objections to candidacy, contests of elections, contests of certification of
5 recall petition; parties authorized to institute actions

6 * * *

7 F. A public officer who alleges that except for substantial irregularities or
8 error or except for fraud or other unlawful activities in the conduct of the election he
9 would not have been recalled may bring an action contesting the election.

10 §1402. Proper parties

11 * * *

12 C. The secretary of state, in his official capacity, shall be made a party
13 defendant to any action contesting an election for public office or an election for the
14 recall of a public officer. The secretary of state, in his official capacity, shall be
15 made defendant to any action objecting to the calling of a special election. The
16 secretary of state, in his official capacity, shall be made a party defendant to any
17 action contesting the certification of a recall petition. When named as a defendant
18 in an action contesting an election, costs of court shall not be assessed against the
19 secretary of state. When named as a defendant in an action contesting the
20 certification of a recall petition, costs of court shall not be assessed against the
21 secretary of state.

22 * * *

23 §1404. Venue

24 * * *

25 E. An action contesting an election for the recall of a public officer shall be
26 instituted in the district court for a parish included in whole or in part in the voting
27 area wherein the recall election is held; however, if the public officer recalled is a
28 statewide elected official, an action contesting the election shall be instituted in the
29 district court for the parish where the state capitol is situated.

1 §1405. Time for commencement of action

2 * * *

3 B. An action contesting any election involving election to office shall be
4 instituted ~~on or before~~ not later than 4:30 p.m. of the ninth day after the date of the
5 election, and no such contest shall be declared moot because of the performance or
6 nonperformance of a ministerial function including but not limited to matters relating
7 to the printing of ballots for the general election.

8 * * *

9 H. An action contesting any election involving the recall of a public officer
10 shall be instituted not later than 4:30 p.m. of the ninth day after the date of the
11 election.

12 §1406. Petition; answer; notification

13 * * *

14 B. The petition shall set forth in specific detail the facts upon which the
15 objection or contest is based. If the action contests an election involving election to
16 office, the petition shall allege that except for substantial irregularities or error, fraud,
17 or other unlawful activities in the conduct of the election, the petitioner would have
18 qualified for a general election or would have been elected. If the action contests an
19 election involving the recall of a public officer, the petition shall allege that except
20 for substantial irregularities or error, fraud, or other unlawful activities in the conduct
21 of the election, the petitioner would not have been recalled. The trial judge may
22 allow the filing of amended pleadings for good cause shown and in the interest of
23 justice.

24 * * *

25 §1415. Discovery prior to filing a suit contesting an election

26 * * *

27 B. Provided an action contesting an election involving the recall of a public
28 officer has not been filed pursuant to R.S. 18:1405(H), the recalled public officer
29 may conduct limited discovery as provided in this Section during the period of time

1 after the close of the polls on election day and prior to the expiration of time to file
2 a suit contesting such election.

3 C. Such discovery may be conducted only after execution of an affidavit by
4 a poll watcher, commissioner, or any other election official that he has personal
5 knowledge of an irregularity in the election and only after such affidavit has been
6 filed with a court of competent jurisdiction. The nature of the irregularity shall be
7 specified in the affidavit. The clerk of court shall immediately notify the secretary
8 of state by telephone and by written notice when such affidavit has been filed, and
9 shall notify the opponents of the candidate of the filing of the affidavit. The clerk
10 shall also supply a copy of the affidavit to each opponent of the candidate.

11 ~~E.~~ D. Discovery shall be limited to the taking of the deposition of any
12 election official, including his employees, having responsibilities regarding the
13 conduct of such election and the inspection and copying of documents and other
14 records in the custody and control of any such election official, but shall not include
15 access to voting machines prior to the date such machines are opened in accordance
16 with R.S. 18:573. The deposition of a statewide elected official or his employee
17 shall be conducted at the office of such official.

18 ~~D.~~ E. Upon the request of the candidate or recalled public officer, after the
19 filing of the affidavit as provided in Subsection ~~B~~ C of this Section, the clerk of any
20 district court shall issue subpoenas and subpoenas duces tecum in aid of the taking
21 of depositions and the production of documentary evidence for inspection or
22 copying, or both.

23 ~~E.~~ F. The authority for a candidate or recalled public officer to conduct
24 discovery under the provisions of this Section shall cease when an action contesting
25 such election is filed pursuant to R.S. 18:1405(B) or (H).

26 ~~F.~~ G. A candidate or recalled public officer who conducts limited discovery
27 as provided in this Section shall be responsible for all reasonable costs associated
28 with such discovery.

29 * * *

1 §1431. Fraudulent or illegal votes; uncounted votes; determination of election result

2 When the court finds that one or more of the votes cast in a contested election
3 are illegal or fraudulent, the judge shall subtract such vote or votes from the total
4 votes cast for the candidate who received them if the contest involves election to
5 office, ~~or~~ from the total vote for or against a proposition; if the contest is of an
6 election upon a proposition, or from the total vote for or against the recall of a public
7 officer if the contest involves an election for the recall of a public officer. If the
8 court determines that legal votes cast in the election were excluded in the total votes
9 cast on a candidate, ~~or~~ proposition, or recall, then these excluded legal votes shall be
10 added to the total votes on the candidate, ~~or the~~ proposition, or recall to which they
11 are attributable. Thereafter, and after considering all the evidence, the court shall
12 determine the result of the election.

13 §1432. Remedies

14 A.(1) If the trial judge in an action contesting an election determines that:
15 ~~(1)~~ it is impossible to determine the result of election, or ~~(2)~~ the number of qualified
16 voters who were denied the right to vote by the election officials was sufficient to
17 change the result in the election, if they had been allowed to vote, or ~~(3)~~ the number
18 of unqualified voters who were allowed to vote by the election officials was
19 sufficient to change the result of the election if they had not been allowed to vote, or
20 ~~(4)~~ a combination of the these factors ~~referred to in (2) and (3) in this Subsection~~
21 would have been sufficient to change the result had they not occurred, the judge may
22 render a final judgment declaring the election void and ordering a new primary or
23 general election for all the candidates, or, if the judge determines that the appropriate
24 remedy is the calling of a restricted election, the judge may render a final judgment
25 ordering a restricted election, specifying the date of the election, the appropriate
26 candidates for the election, the office or other position for which the election shall
27 be held, and indicating which voters will be eligible to vote.

28 (2) If the trial judge in an action contesting an election for the recall of a
29 public officer determines that: it is impossible to determine the result of election,

or the number of qualified voters who were denied the right to vote by the election officials was sufficient to change the result in the election, if they had been allowed to vote, or the number of unqualified voters who were allowed to vote by the election officials was sufficient to change the result of the election if they had not been allowed to vote, or a combination of these factors would have been sufficient to change the result had they not occurred, the judge may render a final judgment declaring the election void and ordering a new recall election, or, if the judge determines that the appropriate remedy is the calling of a restricted election, the judge may render a final judgment ordering a restricted election, specifying the date of the election, and indicating which voters will be eligible to vote.

* * *

§1433. Revote in precincts where voting machine malfunctions if result cannot be otherwise ascertained

A. Notwithstanding the provisions of R.S. 18:1432, if a discrepancy sufficient to change the result of the election between the total votes cast at an election and the votes counted for the candidates in the election or for or against the recall of a public officer occurs as a result of a voting machine malfunction, and an accurate count of the votes cast on the malfunctioning machine cannot be determined by the offering of circumstantial evidence or any other evidence, the court shall order a revote in the precinct where the voting machine malfunctioned, which shall be limited to those persons listed on the poll list as having cast their ballots in person at the polls in the election in which the machine malfunctioned.

B. Notwithstanding the provisions of R.S. 18:1432, if a discrepancy sufficient to change the result of the election between the total votes cast at an election and the votes counted for the candidates in the election or for or against the recall of a public officer occurs as a result of the malfunction of a voting machine used for early voting, and an accurate count of the votes cast on the malfunctioning machine cannot be determined by the offering of circumstantial evidence or any other evidence, the court shall order a revote of electronic early voting ballots in the

1 parish where the voting machine used for early voting malfunctioned, which shall
2 be limited to those persons who voted during early voting in the election.

3 * * *

4 §1941. Voting Rights Act submission by political subdivisions; copy to secretary
5 of state

6 A. Each political subdivision of this state which submits for preclearance any
7 proposed change in voting practice or procedure pursuant to Section 5 of the Voting
8 Rights Act of 1965 shall, at the same time as the submission, send a copy of its
9 submission, by certified mail, to the secretary of state, clerk of court, and registrar
10 of voters. The political subdivision shall also send to the secretary of state, clerk of
11 court, and registrar of voters, by certified mail, a copy of any response to the
12 submission.

13 B. The entity responsible for sending a copy of the submission and any
14 response thereto to the secretary of state, clerk of court, and registrar of voters, as
15 required pursuant to this Section, is the submitting authority as defined in the Voting
16 Rights Act of 1965.

17 * * *

18 Section 2. R.S. 18:1284(F) and 1299.1 are hereby amended and reenacted to read
19 as follows:

20 §1284. Resolution calling election; proposition

21 * * *

22 F.(1) The preparation of ~~the statement of~~ the proposition to be submitted to
23 the voters at an election shall be the responsibility of the governing authority of the
24 political subdivision ordering the election. ~~The statement of the proposition shall~~
25 ~~also include a simple and unbiased concise summary in easily understood language~~
26 ~~which sets forth the substance of the proposition~~ include the information required by
27 this Section in simple, unbiased, concise, and easily understood language and be in
28 the form of a question. ~~The statement of the proposition, including the summary,~~

1 shall not exceed ~~four~~ two hundred words in length. ~~Such summary shall be placed~~
2 ~~at the beginning of the statement of the proposition.~~

3 (2) The secretary of state shall be responsible for ensuring that the ~~statement~~
4 ~~of the proposition contains the summary as provided in Paragraph (1) of this~~
5 ~~Subsection~~ complies with the requirements of this Section.

6 * * *

7 §1299.1. ~~Statement of question~~ Question or proposition to be voted on; ~~statement~~
8 length

9 A. The preparation of ~~the statement of any~~ a question or proposition to be
10 submitted to the voters at an election shall be the responsibility of the governing
11 authority or other entity calling the election or submitting the question or
12 proposition. ~~The statement of the proposition shall also include a simple and~~
13 ~~unbiased concise summary in easily understood language which sets forth the~~
14 ~~substance of the proposition~~ be comprised of simple, unbiased, concise, and easily
15 understood language and be in the form of a question. ~~The statement of the~~
16 ~~proposition, including the summary, shall not exceed four~~ two hundred words in
17 length. ~~Such summary shall be placed at the beginning of the statement of the~~
18 ~~proposition.~~

19 B. The secretary of state shall be responsible for ensuring that the ~~statement~~
20 ~~of the proposition contains the summary as provided in Subsection A~~ complies with
21 the requirements of this Section.

22 Section 3. R.S. 18:1317 is hereby repealed in its entirety.

23 Section 4.(A) This Section, Section 1, and Section 3 of this Act shall become
24 effective upon signature of this Act by the governor or, if not signed by the governor, upon
25 expiration of the time for bills to become law without signature by the governor, as provided
26 by Article III, Section 18 of the Constitution of Louisiana. If this Act is vetoed by the
27 governor and subsequently approved by the legislature, this Section, Section 1, and Section
28 3 of this Act shall become effective on the day following such approval.

29 (B) Section 2 of this Act shall become effective on January 1, 2013.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Tim Burns

HB No. 852

Abstract: Revises the system of laws comprising the La. Election Code.

Present law (R.S. 18:25) requires the State Board of Election Supervisors to report annually to the governmental affairs committees of the legislature its findings, observations, and recommendations concerning all aspects of elections in the state. Requires the report to be submitted prior to the 90th day before each legislative session. Proposed law instead requires the report to be submitted by Jan. 15 each year. Otherwise retains present law.

Present law (R.S. 18:104) authorizes the secretary of state to prescribe a form to be used uniformly by registration officials in registering citizens to vote. Requires certain information to be included on the form, including the present age and date of birth of the applicant. Proposed law removes the present age of the applicant from the information required to be included on the registration application form. Otherwise retains present law.

Present law (R.S. 18:109) requires the Dept. of State to send a notice to the appropriate registrar and the registrar to mail a notice to the person when the Dept. of State receives information from a person concerning a new registration or any change in the person's registration. Proposed law provides that the notices shall be sent when the Dept. of State receives information concerning a change in name, address, or polling place, not other changes.

Present law provides that the registrar is not required to send the notice to a voter who has been on the inactive list of voters for at least two years unless the change in registration involves a change in address. Proposed law removes language regarding being on the inactive list for two years. Otherwise retains present law.

Present law requires certain information to be printed on the face of a notice of change in registration, including directions to the postmaster to "deliver only as addressed; otherwise return to sender; address correction requested". Proposed law provides instead that "Return Service Requested" be printed on the face of the notice.

Present law (R.S. 18:152) provides that prior to each election, the registrar shall "request" a current precinct register and duplicate precinct register for each precinct in the parish where an election is to be held. Proposed law requires the registrar to "obtain" one current copy of the precinct register and repeals the requirement for a hard copy duplicate precinct register. Provides that the Dept. of State will provide the registrar with a duplicate precinct register in electronic form instead.

Present law (R.S. 18:154) prohibits the registrar and the Dept. of State from disclosing certain voter information, including the day and month of the date of birth of a voter. Provides an exception for the transmission of voter registration data to the office of motor vehicles of the Dept. of Public Safety and Corrections, for the purposes of verifying the accuracy and authenticity of the social security number, driver's license number, or full date of birth provided by the voter. Proposed law retains present law, but prohibits the office of motor vehicles from disclosing voter registration data except to transmit such information to the U.S. Social Security Administration for the purposes of verifying the accuracy and authenticity of the social security number provided by the voter.

Proposed law additionally provides exceptions for transmitting the full date of birth of a voter to the Supervisory Committee on Campaign Finance Disclosure to verify the identity of a candidate for purposes of campaign finance reporting and for providing a clerk of court the full date of birth of a registered voter for the preparation of a general venire selection in accordance with present law (R.S. 18:175). Prohibits the supervisory committee and a clerk of court from disclosing such information.

Present constitution (Art. 1, §10) provides that a person's right to vote may be suspended while he is under an order of imprisonment for conviction of a felony. Present law (R.S. 18:177) provides procedures and requirements for reinstating a voter registration that has been suspended because of conviction of a felony. Generally requires the person to appear in the office of the registrar and provide documentation from the appropriate correction official showing the person is no longer under an order of imprisonment. Proposed law retains present law.

Present law provides an exception to the requirement to appear in person in the office of the registrar for certain disabled persons who qualify to vote under present law provisions regarding a special program for voters residing in nursing homes. Proposed law repeals present law and provides documentation may be provided by mail, facsimile, commercial carrier, or hand delivery for the following:

- (1) A person who has been approved by the parish board of election supervisors as being eligible to participate in the Special Program for Handicapped Voters as such program existed prior to Jan. 1, 2010.
- (2) A person who has submitted to the registrar current proof of disability from a physician along with a certification from the physician indicating that by reason of the person's disability the person is unable to appear in person to vote either during early voting or at the polling place on election day.

Present law (R.S. 18:402 and 1272) provides for the dates of primary and general elections. Provides that congressional general elections are held on the first Saturday in Dec. in even-numbered years. Authorizes a special general election and bond, tax, and other elections at which a proposition or question is to be submitted to the voters to be held on this date. Proposed law changes the date of the congressional general election from the first Saturday in Dec. to the second Saturday in Dec. Otherwise retains present law.

Present law provides that elections may not be held on certain prohibited days, including certain religious holidays. Provides that if the date of any election falls on any of the prohibited days, the election shall be held on the same weekday of the preceding week. Proposed law retains present law and additionally provides that if the date for the general election is advanced in accordance with present law, the primary election shall be advanced the same number of weeks as the general election

Present law (R.S. 18:427 and 435) provides for poll watchers. Provides for qualifications, powers, duties, appointment, and commission of watchers. Provides that each candidate is entitled to have one watcher at every precinct where the office he seeks is voted on in a primary or general election. Provides that a watcher shall be admitted within all parts of the polling place during the election and the counting and tabulation of votes, and shall call any infraction of the law to the attention of the commissioners. Proposed law specifies that watcher's responsibilities are limited to election day voting. Otherwise retains present law.

Present law (R.S. 18:431) requires the clerk of court to conduct a general course of instruction for commissioners at least semiannually. Proposed law changes this requirement to provide that the course of instruction be conducted at least annually instead of semiannually.

Present law requires the clerk of court to file a report with the parish board of election supervisors and to the secretary of state following each course of instruction detailing certain information about the course and about the persons who attended the course. Proposed law removes the requirement that the clerk "file" the report with the secretary of state and provides instead that the clerk shall provide such report in the manner required by the secretary. Otherwise retains present law.

Present law (R.S. 18:461) provides that a person who desires to become a candidate in a primary election shall qualify by timely filing notice of his candidacy, which shall be accompanied either by a nominating petition or by the qualifying fee and any additional fee imposed. Provides requirements for nominating petitions. Proposed law retains present law.

Present law (R.S. 18:465) provides requirements for nominating petitions, including the number of qualified voters that must sign a petition. Provides that the registrars of voters in the parishes where signers reside certify that the petition was signed by a sufficient number of qualified voters. Requires petitions to be submitted to the registrars for such purposes. Proposed law retains present law.

Present law provides that a nominating petition shall be submitted to the appropriate registrars not less than 30 days before the qualifying period ends for candidates in the primary election or, in the case of presidential electors, in the presidential election, except that in a special election a nominating petition shall be submitted by the candidate to the registrars of voters in such parishes prior to the opening of the qualifying period.

Proposed law provides that for a special election to fill a vacancy in the office of state legislator or U.S. representative, the nominating petition must be submitted to the registrars not less than 14 days before the end of the qualifying period. Provides that for other special elections, the nominating petition must be submitted not less than 30 days before the end of the qualifying period. Otherwise retains present law.

Present law (R.S. 18:532.1) authorizes parish governing authorities to change the configuration, boundaries, or designation of election precincts by ordinance, subject to certain limitations and requirements. Requires a parish governing authority to, within 15 days after the adoption of such an ordinance, send to the secretary of the Senate and the clerk of the House of Representatives as well as the secretary of state a certified copy of the ordinance and a copy of a map showing the new precinct boundaries together with a written description of such boundaries. Proposed law retains present law and additionally provides that such information shall also be sent to the clerk of court and registrar of voters.

Present law (R.S. 18:562 and 1309) provides prerequisites to voting on election day and during early voting. Provides procedures for identifying a potential voter. Requires each such person to present to the election officials a La. driver's license, a La. special identification card issued pursuant to present law (R.S. 40:1321), or other generally recognized picture identification card that contains the name and signature of the person. Provides, however, that if the person does not have such an identification card, the person shall sign an affidavit, which is supplied by the secretary of state, to that effect before the election officials who shall place the affidavit in the envelope marked "Registrar of Voters" and attach the envelope to the precinct register. Requires the person to provide further identification by presenting his current registration certificate, giving his date of birth, or providing other information stated in the precinct register that is requested by the election officials. Provides that a person who is allowed to vote without the picture identification card required by present law is subject to challenge as provided in present law (R.S. 18:565).

Proposed law provides that the affidavit must be completed and signed by the person and that the affidavit contain the person's date of birth and mother's maiden name. Provides that if the person is unable to read or write or is otherwise unable to complete the affidavit due to disability, the person may receive assistance in completing the affidavit and the election official shall make a notation on the affidavit. Provides that the person may choose who

assists him, subject to certain specific restrictions. Removes provisions requiring the person to provide further identification. Otherwise retains present law.

Present law (R.S. 18:562) provides that a person who presents himself to vote on election day shall be allowed to do so when the commissioner is satisfied that the person has identified himself as the voter named on the precinct register and that he is qualified to vote. Proposed law retains present law and adds such language to provisions relative to early voting (R.S. 18:1309).

Present law (R.S. 18:591, 602, and 604) provides a 10-day deadline for making an appointment to fill a vacancy in the offices of elective members of state boards and commissions and certain local and municipal offices. Provides a 10-day deadline for issuing a proclamation calling a special election for certain offices. Proposed law extends the deadlines to 20 days.

Present law (R.S. 18:602) provides for vacancies in the office of a member of a parish or municipal governing authority or a combination thereof, a mayor, or any other local or municipal office, except member of a city or parish school board, district attorney, clerk of a district court, coroner, sheriff, tax assessor, judge, state legislator, or marshal of a city or municipal court, and the office is filled by election wholly within the boundaries of a local governmental subdivision. Provides that if the unexpired term of such a municipal office is one year or more, but the vacancy occurs within one year of the regular municipal primary election for that office, no special election will be called and the appointee shall serve for the remainder of the term of office. Proposed law applies provisions of present law relative to the holding of a special election based on the timing of the regular primary election to parish offices covered by present law. Otherwise retains present law.

Present law (R.S. 19:1284 and 1299.1) provides relative to bond, debt, and tax elections and other elections where a proposition or question is put to the voters. Provides requirements for a statement of a proposition to be submitted to the voters. Provides that the statement is the responsibility of the governing authority, political subdivision, or other entity calling the election. Requires certain information to be included, including a simple, unbiased, and concise summary of the proposition. Provides that the statement of the proposition shall not exceed 400 words. Provides that the secretary of state is responsible for ensuring that the statement of the proposition contains a summary as required by present law.

Proposed law repeals references to a "statement of a proposition" and applies requirements to the proposition itself. Provides that the proposition shall not exceed 200 words, instead of 400. Requires the proposition to be stated in the form of a question. Provides that the secretary of state shall ensure that the proposition complies with proposed law. Otherwise retains present law.

Present law (R.S. 18:1307) provides relative to voting absentee by mail. Provides procedures and requirements. Requires a person to make application to the registrar by letter, over his signature or mark, setting forth certain required information. Proposed law retains present law.

Present law provides that an application to vote absentee by mail must be received by the registrar not earlier than 60 days prior to the election. Proposed law repeals present law.

Proposed law additionally provides that if a person applying to vote absentee by mail is a program participant in the Address Confidentiality Program pursuant to present law his application, if it meets the requirements of present law, shall remain valid as long as the applicant is a program participant in the Address Confidentiality Program. Provides that when the applicant ceases participation in the program, the registrar shall send notice by forwardable mail to the applicant that his application will no longer be valid, and the applicant shall be required to submit a new application to the registrar that meets the

requirements of present law and provide a current address before the applicant will be eligible to vote absentee by mail again.

Proposed law provides further that an applicant who has a valid La. driver's license or La. special identification card issued pursuant to present law (R.S. 40:1321) who is registered to vote, may make application to vote by mail by completing and submitting an electronic application to vote by mail on the secretary of state's website.

Present law (R.S. 18:1308 and 1308.1) requires the registrar to detach a perforated slip from an absentee by mail ballot before mailing or delivering the ballot and to retain the slip in his records for six months. Proposed law repeals present law.

Present law (R.S. 1308) provides procedures for voting absentee by mail. Provides relative to transmission of absentee by mail election materials. Provides that materials may be electronically transmitted to members of the U.S. Service and persons residing outside of the U.S. for federal candidates in congressional elections, presidential preference primary elections, and presidential elections. Proposed law retains present law and additionally provides that materials may be transmitted to members of the U.S. Service and persons residing outside the U.S. for all state and local elections.

Present law provides that if an absentee by mail voter feels he will not have time to vote timely by mail, the voter may request that the registrar transmit to him by facsimile a ballot. Proposed law retains present law, but provides that the registrar shall not be required to send a second ballot by facsimile if the voter received a ballot by mail.

Present law (R.S. 18:1309) provides relative to early voting. Provides procedures and requirements. Proposed law retains present law and provides that a voter shall not remain in a voting machine longer than three minutes, or 20 minutes if the voter is entitled to assistance in voting pursuant to present law (R.S. 18:1309.3) or is using the audio ballot. Provides that if a voter fails to leave a voting machine promptly after the registrar or deputy registrar has notified him that the applicable time period has elapsed, the registrar or deputy registrar shall have the voter removed from the voting machine.

Present law (R.S. 18:1309.1) requires the parish custodian, prior to the conduct of absentee voting, to provide notice to each candidate of the time and place at which the voting machines will be sealed for absentee voting in person; that each candidate or his representative may be present to observe the preparation of the machines; and that each candidate or his representative will have the opportunity to inspect and test vote the machines to see that they are in proper condition for the election. Provides that the notice shall state the time and place at which the parish custodian of voting machines will begin preparation of the machines for sealing and provides that the reasonable opportunity to inspect the machines shall not be less than 30 minutes beginning at the time designated by the parish custodian to begin preparation of the machines for sealing. Prohibits a candidate, his representative, or citizen from interfering with the registrar of voters, parish custodian, or any employee or technician or assuming any of their duties.

Proposed law requires each candidate to be notified at the time of qualifying instead of prior to the conduct of early voting. Provides that a candidate shall be notified to contact the registrar of voters concerning the time and place at which the voting machines will be prepared. Repeals provisions requiring the notice to contain the time and place for sealing. Provides that machines are prepared, tested, and sealed by the registrar in the presence of the parish board of election supervisors. Provides that a candidate may view the test vote tape for each machine instead of actually inspecting and testing the machines.

Present law (R.S. 18:1313) relative to the counting and tabulation of absentee by mail and early voting ballots. Present law provides that the parish board of election supervisors shall be responsible for the counting and tabulation of all absentee by mail and early voting ballots in the parish and provides procedures therefor. Provides that the board first determine the

validity of the ballots. Provides that the board then count the ballots and announce the total number of absentee by mail and early voting votes cast for a candidate and those cast for and against a proposition in the order the offices and candidates and propositions are listed on the ballot. Provides that if counting equipment is used, the board must ensure that the equipment's counters are set to zero prior to use. Requires the members of the board to enter the total number of votes on the final absentee by mail and early voting vote report and shall certify the results.

Proposed law retains present law and additionally provides that if a ballot is physically damaged or cannot properly be counted by the counting equipment and the board can tell the intent of the voter from the defective ballot, a true duplicate copy may be made of the defective ballot in the presence of witnesses and substituted for the ballot. Provides that the duplicate ballot shall be clearly labeled "duplicate", bear a ballot number which shall be recorded on the defective ballot and be counted in lieu of the defective ballot. Provides that after a ballot has been duplicated, the defective ballot shall be placed in the special absentee by mail and early voting ballot envelope and the duplicate ballot shall be counted with the other valid ballots.

Present law provides that upon completion of the tabulation and counting, the board shall deliver the absentee by mail and early voting ballots to the registrar. Provides, however, that if the number of absentee by mail and early voting ballots cast for all candidates for an office could make a difference in the outcome of the election for such office, upon the written request of a candidate for such office, the board shall recount the absentee by mail and early voting ballots for such office. Proposed law provides that the absentee by mail ballots shall be recounted by hand and that the early voting ballots shall be counted electronically unless paper ballots were used for early voting, in which case the ballots shall be counted by hand. Otherwise retains present law.

Present law (R.S. 18:1317) provides that when the members of the board determine by proof satisfactory to them that a voter who has voted by absentee by mail or early voting ballot has died prior to the opening of the polls on the day of the election, they shall return the ballot or early voting application of the voter in the same manner as is provided in present law provisions relative to the challenge of ballots (R.S. 18:1315). Provides, however, that the casting of an absentee by mail or early voting ballot by a voter who thereafter dies or the tabulation of such a ballot shall not invalidate the election.

Proposed law repeals present law.

Present law (R.S. 18:1314) provides relative to absentee by mail and early voting commissioners. Provides for qualifications and selection. Provides that the parish board of election supervisors shall determine the number of absentee by mail and early voting commissioners necessary for an election. Requires the board to select at least three commissioners for the primary or first party primary election. Allows the board to increase or decrease the number of absentee by mail and early voting commissioners for a second party primary or general election.

Proposed law repeals the minimum number of absentee by mail and early voting commissioners that must be selected and provides for a maximum of six such commissioners. Requires approval of the secretary of state or his designee if the board seeks to use more than six absentee by mail and early voting commissioners for an election. Requires approval of the secretary of state or his designee to increase the number of commissioners to be used at the second party primary or general election. Provides that a designee of the secretary of state may approve the number of absentee by mail and early voting commissioners used to count and tabulate provisional ballots. Otherwise retains present law.

Present law (R.S. 18:1352) provides that voting machines shall be used throughout the state in all elections, provided that nothing in present law prohibits absentee by mail and early

voting. Proposed law provides that paper ballots may be used when voting machines fail. Otherwise retains present law.

Present law provides procedures and time limits for contesting elections. Proposed law (R.S. 18:1401 and 1402) retains present law and additionally provides procedures and time limits for contesting recall elections. Provides that a public officer who alleges that, except for substantial irregularities or error, or except for fraud or other unlawful activities in the conduct of the election, he would not have been recalled may bring an action contesting the election. Provides that the secretary of state, in his official capacity, shall be made a party defendant to any action contesting an election for the recall of a public officer.

Proposed law (R.S. 18:1404, 1405, 1406, and 1415) provides that an action contesting an election for the recall of a public officer shall be instituted in the district court for a parish included in whole or in part in the voting area wherein the recall election is held; however, if the public officer recalled is a statewide elected official, an action contesting the election shall be instituted in the district court for the parish where the state capitol is situated. Provides that an action contesting an election involving the recall of a public officer shall be instituted on or before 4:30 p.m. of the ninth day after the date of the election. Requires the petition in such an action to contain allegations that except for substantial irregularities or error, fraud, or other unlawful activities in the conduct of the election, the petitioner would not have been recalled. Provides further that if an action contesting an election involving the recall of a public officer has not been filed, the recalled public officer may conduct limited discovery as provided pursuant to present law during the period of time after the close of the polls on election day and prior to the expiration of time to file a suit contesting such election.

Present law (R.S. 18:1431) provides that when the court finds that one or more of the votes cast in a contested election are illegal or fraudulent, the judge shall subtract such vote or votes from the total votes cast for the candidate who received them if the contest involves election to office, or from the total vote for or against a proposition, if the contest is of an election upon a proposition. Provides that if the court determines that legal votes cast in the election were excluded in the total votes cast on a candidate or proposition, then these excluded legal votes shall be added to the total votes on the candidate or the proposition to which they are attributable. Provides that thereafter, and after considering all the evidence, the court shall determine the result of the election. Proposed law applies present law to votes cast in a recall election.

Present law (R.S. 18:1432) provides if the trial judge in an action contesting an election determines that: (1) it is impossible to determine the result of election, or (2) the number of qualified voters who were denied the right to vote by the election officials was sufficient to change the result in the election, if they had been allowed to vote, or (3) the number of unqualified voters who were allowed to vote by the election officials was sufficient to change the result of the election if they had not been allowed to vote, or (4) a combination of the factors referred to in (2) and (3) would have been sufficient to change the result had they not occurred, the judge may render a final judgment declaring the election void and ordering a new primary or general election for all the candidates, or, if the judge determines that the appropriate remedy is the calling of a restricted election, the judge may render a final judgment ordering a restricted election, specifying the date of the election, the appropriate candidates for the election, the office or other position for which the election shall be held, and indicating which voters will be eligible to vote. Proposed law applies present law to actions contesting recall elections.

Present law (R.S. 18:1433) provides for a revote at a precinct when a discrepancy sufficient to change the result of the election is caused because of a voting machine malfunction. Proposed law applies present law to recall elections.

Present law (R.S. 18:1300.13) provides that when a majority votes in favor of the recall, the public officer is, ipso facto, recalled and removed from office, and the office shall be vacated

upon receipt by the secretary of state of certified returns from all of the parish boards of election supervisors within the jurisdiction. Proposed law provides instead that the office shall be vacated upon expiration of the time period for contesting the recall election set forth in proposed law if an action contesting the recall election is not commenced timely or when the final judgment becomes definitive if an action contesting the recall election is commenced timely.

Present law (R.S. 18:1941) provides that each political subdivision of the state which submits for preclearance any proposed change in voting practice or procedure pursuant to federal law (Section 5 of the Voting Rights Act of 1965) shall, at the same time as the submission, send a copy of its submission, by certified mail, to the secretary of state. Provides that the political subdivision shall also send to the secretary of state, by certified mail, a copy of any response to the submission. Proposed law retains present law and additionally requires that such copies must be sent to the clerk of court and registrar of voters.

Proposed law makes various technical changes.

Effective upon signature of governor or lapse of time for gubernatorial action, except that provisions of proposed law relative to propositions submitted to voters become effective Jan. 1, 2013.

(Amends R.S. 18:25(B), 104(A)(3), 109, 152(C)(2)(a), 154(C), 177(A), 402(B)(2), (E)(1)(b) and (2)(b), (F)(2), and (G), 427(B), 431(A)(1)(a) and (3)(a) and (B)(3), 435(A)(1), 465(E)(1)(a), 532.1(F), 562(A)(2), 591, 602(A), (B), (C), (D), (E)(1)(a), (2)(a), and (4), and (F), 604(B)(1) and (2)(a), 1272(A), 1284(F), 1299.1, 1300.13, 1302(2), 1307(B)(1)(d) and (2) and (H), 1308(A)(1) and (2)(d), (e), (f), and (g), 1308.1(A), 1309(D)(1) and (E)(4), 1309.1, 1313(F)(9) and (10) and (I)(2)(a), 1314(B)(1), (C)(1)(b) and (3), and (D)(2), 1352, 1402(C), 1405(B), 1406(B), 1415(B), (C), (D), (E), and (F), 1431, 1432(A), 1433(A) and (B), and 1941(A) and (B); Adds R.S. 18:1307(I), 1308(A)(2)(h), (i), and (j), 1309(E)(5), 1313(F)(11), 1401(F), 1404(E), 1405(H), and 1415(G); Repeals R.S. 18:1317)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill.

1. Adds a prohibition against the office of motor vehicles disclosing voter registration data except to transmit such information to the U.S. Social Security Administration for the purposes of verifying the accuracy and authenticity of the social security number provided by the voter.
2. Adds provisions authorizing the Dept. of State or registrar of voters to provide to a clerk of court the full date of birth of a registered voter for the preparation of a general venire selection and prohibiting the clerk of court from disclosing such information.
3. In provisions concerning the completion of voter identification affidavits, adds a candidate to the list of persons who are prohibited from assisting a voter in completing an affidavit during early voting and specifies that it is the applicant's or voter's employer or employer's agent and the applicant's or voter's union agent that are prohibited from assisting the applicant or voter in completing an affidavit during early voting or at the polls, respectively.
4. Makes technical changes.